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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,220	02/28/2002	Tom Kusic		8010

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TOM KUSIC
G.P.O. BOX 932
MELBOURNE, VIC 3001
AUSTRALIA

EXAMINER

HOLZEN, STEPHEN A

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/086,220

Applicant(s)

KUSIC, TOM

Examiner

Stephen A. Holzen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-89 is/are pending in the application.
- 4a) Of the above claim(s) 1-3 and 7-89 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 1-3, 7-89 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 4 recites the limitation "the secondary tilt enabling joint" in line 16, page 44. There is insufficient antecedent basis for this limitation in the claim. The examiner notes that the applicant actually re-introduced the term "secondary tilt enabling joint" in line 23 page 45. The applicant cannot use the words "the" or "said" to refer to an element, when introducing an element. To properly refer back to the elements of a claim, then the applicant may use language such as "said" and "the".

Claim Objections

5. Claim 4 is objected to because the claim is overly repetitive, making the claimed subject matter difficult to read. The applicant is requested to re-write the claim in a manner, which is not overly wordy, and is clear and concise. (e.g. The reader of the claim sees that the two mechanisms are connected to the main body in tandem order in lines 13-18. There is no need to replete this limitation in page 43: line 25, page 47, line 11, and page 47, line 16.)

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Austen-Brown (US 2003/0094537) in view of G. C. Celayan (3,514,051). Austen-Brown discloses an airplane having a main body (see figure 1) a tandem lifting mechanism (#2, #4)) primary lifting mechanism (#2) rotor (inherent) engine assembly (inherent) plurality of blades (see Figure 1) connected to rotor (blades are connected to the rotor) attached to a primary tilt enabling joint (see Figure 1) exerts an upward force on the forward end of the main body (see Figure 1, it should be appreciated that the title enabling joint exerts an upward force on the entire aircraft, as well as the forward end) secondary lifting mechanism (#4) attached to the secondary tilt enabling joint (see Figure 1, #4) able to force air downward (#4) exerts force on aft end of main body (#4) secondary tilt enabling joint able to tilt in an opposite direction for the primary tilt-enabling joint. Austen-Brown however does not disclose the use of a jet engine. However Celayan discloses that it is known to use a rotatable jet engine for the purpose of providing vertical and horizontal thrust to the aircraft. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the blades/rotor/engine #4 of Austen-Brown with the jet engine of Celayan.

Re - Claims 5 and 6: Although Austen-Brown in view of Celayan do not disclose a turbo jet or a turbo fan it would have been obvious to use one of these apparatus because what is shown in the references and what is being claimed are "art recognized equivalents."

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7. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Serriades (3,282,534) in view of Brady (3,985,320). Serriades discloses a main body, tandem lifting mechanism, primary and secondary lifting mechanisms, an engine assembly, where the primary lifting mechanism comprises a rotor, blades, and blades (inherent that jet engines have rotors, blades as well as stators), and a second lifting mechanism comprising a jet engine attached to a second tilt enabling joint. The only aspect of the claim that Serriades does not disclose is the ability to have the primary and secondary tilting mechanisms tilt in opposite directions. However Brady discloses that it is known in the hovering art to allow a tilting mechanism to tilt in opposite directions to enable the aircraft to sustain its stability (see Figure 1). It would have been obvious at the time of the invention to one having ordinary skill in the art to include the teachings of Brady into the device of Serriades for the purpose of increase the safety and stability of the Serriades' aircraft.

Re - Claims 5 and 6: Serriadies and Brady do not disclose a turbo jet or a turbo fan it would have been obvious to use one of these apparatus because what is shown in the references and what is being claimed are "art recognized equivalents."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A. Holzen whose telephone number is 703-308-2484. The examiner can normally be reached on M-F 7:30 - 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T. Jordan can be reached on 703-306-4159. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4174.

Charles T. Jordan
Supervisor
Art Unit 3644
Mail Stop 9000
Springfield, VA 22154-9000
703-306-4159

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